

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CANDY M. R.,

Plaintiff(s),

v.

MARTIN O'MALLEY,

Defendant(s).

Case No. 2:24-cv-00927-NJK

Order

[Docket No. 1]

Plaintiff requests authority pursuant to 28 U.S.C. § 1915 to proceed *in forma pauperis* (Docket No. 1), and has submitted an amended complaint (Docket No. 12).

I. Application to Proceed *In Forma Pauperis*

Plaintiff filed an application to proceed *in forma pauperis*. Docket No. 1. The application has sufficiently shown an inability to prepay fees and costs or give security for them. Accordingly, the application to proceed *in forma pauperis* will be granted pursuant to § 1915.

II. Screening the Complaint

When a party seeks permission to pursue a civil case *in forma pauperis*, courts will screen the complaint. *See* 28 U.S.C. § 1915(e). A central function of this screening process is to “discourage the filing of, and waste of judicial and private resources upon, baseless lawsuits that paying litigants generally do not initiate because of the cost of bringing suit.” *Neitzke v. Williams*, 490 U.S. 319, 327 (1989).

With respect to social security appeals specifically, judges in this District have outlined some basic requirements for complaints to satisfy the Court’s screening. First, the complaint must establish that administrative remedies were exhausted pursuant to 42 U.S.C. § 405(g), and that the civil action was commenced within 60 days after notice of a final decision. Second, the complaint must indicate the judicial district in which the plaintiff resides. Third, the complaint must state the

1 nature of the plaintiff's disability and when the plaintiff claims to have become disabled. Fourth,
 2 the complaint must identify the nature of the plaintiff's disagreement with the determination made
 3 by the Social Security Administration and show that the plaintiff is entitled to relief. *See, e.g.,*
 4 *Graves v. Colvin*, 2015 WL 357121, at *2 (D. Nev. Jan. 26, 2015) (collecting cases).¹

5 The Court has reviewed the amended complaint and finds it is not sufficient to survive
 6 screening. As to the grounds for appeal, the amended complaint alleges that the decision below
 7 was not supported by substantial evidence and contains legal errors. Docket No. 12 at ¶ 9. Simply
 8 parroting the standard of review on appeal is not sufficient. *Graves*, 2015 WL 357121, at *2.
 9 Accordingly, the amended complaint will be dismissed with leave to amend.

10 **III. Conclusion**

11 Accordingly, the Court hereby **ORDERS** as follows:

- 12 1. Plaintiff's request to proceed *in forma pauperis* is **GRANTED** with the caveat that the
 13 fees must be paid if recovery is made. At this time, Plaintiff is not required to pre-pay
 14 the filing fee.
- 15 2. Plaintiff is permitted to maintain this action to conclusion without the necessity of
 16 prepayment of any additional fees or costs or the giving of a security therefor. The
 17 Order granting leave to proceed *in forma pauperis* shall not extend to the issuance of
 18 subpoenas at government expense.
- 19 3. The amended complaint is **DISMISSED** with leave to amend. A second amended
 20 complaint must be filed by July 12, 2024.

21 IT IS SO ORDERED.

22 Dated: June 28, 2024

23 
 24 Nancy J. Koppe
 25 United States Magistrate Judge

26 ¹ New rules govern social security cases, which provide in pertinent part that the plaintiff
 27 "may" provide a short and plain statement of the grounds for relief. Supp. R. Soc. Sec. 2(b)(2).
 28 In the context of an *in forma pauperis* screening, however, a social security plaintiff must still
 provide a sufficient explanation as to her contentions on appeal. *Jalal H. v. Comm'r of Soc. Sec.*,
 2023 WL 35218, at *2 (S.D. Cal. Jan. 4, 2023).